

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MELISSA A. MORAN and KEVIN P. MORAN

Appeal No. 97-4178
Application No. 08/474,943¹

ON BRIEF

Before CALVERT, ABRAMS and STAAB, Administrative Patent Judges.

CALVERT, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 to 3, 5, 6 and 8 to 19.² The other claims remaining in the application, claims 4 and 7, were indicated as allowable if

¹ Application for patent filed June 7, 1995.

² Claim 20 was also finally rejected, but was cancelled by an amendment filed February 3, 1997.

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rewritten in independent form. Also, in his answer the examiner states that the rejection under 35 U.S.C. § 112, and the rejection of claim 15 under 35 U.S.C. § 103, have been withdrawn. Since claim 12 was rejected only under § 112, claims 1 to 3, 5, 6, 8 to 11, 13, 14 and 16 to 19 remain for our consideration.

The subject matter in issue concerns a child restraint system, a clip for use therewith, and a method for securing a child in such a system. The claims on appeal are set forth in the appendix to appellants' brief.

The references applied in the final rejection are:

Peek 3, 1986	4,592,592	Jun.
Chollet et al. (Chollet) ³ 1993 (WIPO Application)	93/21044	Oct. 28,

The claims on appeal stand finally rejected as follows:

(1) Claims 1 to 3, 5, 6, 8 and 17 to 19, unpatentable over

³ A translation of this document, prepared for the PTO, is enclosed herewith. All references in this decision to Chollet by page and line are to pages and lines of the translation.

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Peek in view of Chollet, under 35 U.S.C. § 103;

(2) Claims 9 to 11, 13, 14 and 16, anticipated by Chollet, under 35 U.S.C. § 102(b).

We have fully considered the record in light of the arguments presented in appellants' brief and the examiner's answer. Our conclusions as to each of the rejections are given under separate headings below.

Rejection (1)

The basis of this rejection is set forth on pages 4 and 5 of the examiner's answer.

First considering claim 1, appellants argue that there is no incentive in the prior art to modify Peek to provide a securing device, as disclosed by Chollet in Fig. 7 et seq., for securing the restraining strap 40 of Peek to shoulder straps 30a and/or 30b. We do not agree. The disclosed purpose of Peek's restraining strap 40 is to prevent shoulder straps 30 "from slipping on the belt 20" (col. 4, lines 45 to 49), and it would have been obvious to one of ordinary skill, as appellants indicate in the sentence bridging pages 7 to 8 of their brief, that Peek's strap 40 "would likely perform

[this] function better at a lower position [on the shoulder straps]." One of ordinary skill would therefore have been motivated to provide a means to keep strap 40 at such lower position, where it would be better able to keep straps 30 from slipping on belt 20.

Chollet discloses a means for securing a strap 7 to belts 4 and 6 so that the strap will not rise toward the face of the user (page 5, lines 13 to 20). In view of Chollet's disclosure, we conclude that it would have been obvious to utilize the securing means of Chollet, such as that disclosed in Figs. 7 to 13, to retain the Peek strap 40 in a lower position on straps 30.

Appellants argue that the combination of Peek and Chollet would not meet all the limitations of claim 1 because the Chollet clip does not have "an opening through which at least one of said shoulder straps is positioned" (claim 1, lines 6 to 7; emphasis added). However, as the examiner points out on page 7 of the answer, Chollet's strap 6 extends through opening 26, around bar 24, and back through 26, thus meeting this limitation of the claim.

Accordingly, we will sustain the rejection of claim 1,

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and of claims 2, 3, 5 and 6 grouped therewith (brief, page 4).

Claim 8 recites that "said securing device comprises a cam buckle." Appellants contend that this feature is not taught or suggested by Chollet, but the examiner asserts on page 7 of the answer that Chollet's lever arm and cam portion 28 provide a cam buckle. We consider the examiner's position to be well taken, and will sustain the rejection of claim 8.

With regard to method claims 17 to 19 the examiner states (answer, page 8):

In the rejection of claims 17-19, the examiner holds that the use of the structure of the combination of Peek and Chollet, for securing an occupant within the seat and adjusting the restraint device, in the manner discussed in detail above, would inherently and necessarily encompass the "method for securing" steps of claims 17-19.

However, we agree with appellants that the applied combination of references does not teach or suggest the claimed method.

Claim 17 recites, inter alia, positioning the shoulder straps onto the child with the clip in a first position, moving the clip relative to the shoulder straps to a second position, and then securing the clip to at least one of the shoulder straps. We find no disclosure in Peek, nor do we consider it to be inherent in the use of Peek's disclosed apparatus, as

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modified by Chollet, that these steps would be performed when the shoulder straps 30a and 30b were placed over a child's chest and strap 40 was secured to them. In particular, there is no teaching or suggestion in either reference that Peek's strap 40 would be moved from one position to another on the shoulder straps before securing it to one or both shoulder straps.

We therefore will not sustain the rejection of claims 17 to 19.

Rejection (2)

The argument with regard to claims 9 to 11, 13 and 14 centers around whether the clip disclosed in Chollet's Figs. 7 to 13 includes the following element of claim 9:

maintaining means, connected to said base member, for maintaining sliding engagement of said base member with at least one of the shoulder straps when the securing device is released.

We do not find this terminology in the specification, but it is evidently intended to refer to the slots 36 and tongue 40 of appellants' clip 34.

The examiner reads the above-identified means on the bar 24 and slot 26 arrangement of Chollet, contending that when the bar is in the position shown in Fig. 10, strap 6 can move relative to base member 22 of the clip (answer, pp. 4 and 8). Appellants argue, first, that in Fig. 10 position the Chollet clip could not slide on the belt 6, but is merely at an intermediate position. However, this argument is not sustainable in view of Chollet's disclosure at page 11, lines 11 to 14, that (emphasis added):

In the following stage, shown in figure 10, the bar is swung in the direction of body 22 inside the fold 35, and the body of the loop is adjusted in position by sliding over element 6 of the belt.

Thus it is evident that in the Fig. 10 position, the belt is movable relative to the clip, and vice versa.

Appellants further argue that the Chollet clip has no means for "maintaining" engagement with the strap, since "the strap can easily slide off the end of the element (24)" (brief, page 10). This argument is not persuasive, because Chollet does provide structure which would tend to prevent the belt 6 from easily sliding off bar 24, in that bar 24 has notches 34 of a length at least equal to the width of the belt; see page 11, lines 1 to 3, and Fig. 8. Thus, as shown in Figs. 8, 9 and 10, there is a "head" on the end of bar 24 which would tend to prevent belt 6 from slipping off bar 24, and therefore would tend to maintain sliding engagement of the base member with the strap, as called for by claim 9.

Claims 10, 11, 13 and 14 are grouped with claim 9 (brief, page 4) and fall therewith.

The additional limitations of claim 16 are considered to be met by Chollet for the same reasons as discussed above with regard to claim 8. Specifically, Chollet's body member 24 is rotatably mounted on the base member 22, and has a camming portion 29 and a lever arm 38.

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Accordingly, the rejection of claims 9 to 11, 13, 14 and
16 will be sustained.

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Conclusion

The examiner's decision to reject the claims on appeal is affirmed as to claims 1 to 3, 5, 6, 8 to 11, 13, 14 and 16, and reversed as to claims 17 to 19.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

	IAN A. CALVERT)	
	Administrative Patent Judge))	
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	NEAL E. ABRAMS)	BOARD OF
PATENT	Administrative Patent Judge))	APPEALS AND
)	INTERFERENCES
)	
	LAWRENCE J. STAAB)	
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